

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00165-MR-WCM

DONEGAL MUTUAL INSURANCE)
COMPANY)

as subrogee of)
Agrifactory USA Ltd)
as subrogee of)
Elm Properties, LLC,)

Plaintiff,)

v.)

ORDER

ORDERTECH ACQUISITION ONE, INC.)

doing business as)
Circuit Specialists;)

ORDERTECH CORP.)

doing business as)
Circuit Specialists;)

CIRCUIT SPECIALISTS, INC.; and)
WAYNE THORPE DEVELOPMENT, INC.)

formerly known as)
Circuit Specialists, Inc.;)

Defendants.)

This matter is before the Court for case management purposes.

On May 31, 2023, Donegal Mutual Insurance Company as subrogee of Agrifactory USA Ltd as subrogee of Elm Properties, LLC (“Plaintiff”) filed a Complaint in the Superior Court Division of Henderson County, North Carolina against Ordertech Acquisition One, Inc. doing business as Circuit Specialists (“Ordertech Acquisition”); Circuit Specialists, Inc. (“Circuit

Specialists”); and Wayne Thorpe Development, Inc. formerly known as Circuit Specialists, Inc. (“Wayne Thorpe Development”). Doc. 1 at 7.

On June 21, 2023, Plaintiff filed an Amended Complaint that named the original defendants – Ordertech Acquisition, Circuit Specialists, and Wayne Thorpe Development – and added a new defendant, Ordertech Corp. doing business as Circuit Specialists (“Ordertech Corp”). Doc. 1 at 25.

On July 3, 2023, Ordertech Acquisition, Ordertech Corp., and Circuit Specialists removed the case. Doc. 1 at 1.

On July 7, 2023, Ordertech Acquisition filed a motion for leave to amend the petition for removal.¹ Doc. 2.

On July 12, 2023, Ordertech Corp. filed a Motion to Dismiss. Doc. 10.

On July 21, 2023, Plaintiff filed a Motion to Remand.² Doc. 14.

On August 9, 2023, Plaintiff filed a Stipulation of Dismissal Without Prejudice as to Ordertech Corp. and Circuit Specialists pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure. Doc. 21.³

¹ This motion remains pending.

² This motion remains pending.

³ The next day, Plaintiff also stipulated to a dismissal without prejudice of its claims against Wayne Thorpe Development. Doc. 22.

In light of this stipulation, the Motion to Dismiss that had been filed previously by Ordertech Corp. (Doc. 10) is **DENIED WITHOUT PREJUDICE AS MOOT**. See e.g., Hesed-El v. Doe, 1:19-cv-00285-MR-WCM, 2021 WL 1178058, at *2 (W.D.N.C. March 29, 2021).

It is so ordered.

Signed: August 30, 2023

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

